

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 3/26/2013	(3) CONTACT/PHONE Phil Acosta, Right of Way Agent (805) 781-5290	
(4) SUBJECT Hearing to consider three resolutions of necessity for the acquisition of real property interests required from Kendra Santos, et con, from the Clarence E. and Allene F. Elder Living Trust, dated September 7, 1994, and from the Kenneth Raymond Hord Family Trust, dated March 7, 2000, for the La Panza Road Widening Project. District 5.			
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board: <ol style="list-style-type: none"> 1. Open and conduct a hearing on the adoption of the three resolutions of necessity, receive comments from the staff, take testimony from the property owners or their authorized representative, and consider all the evidence; and 2. Adopt, by a 4/5th's vote, the Resolution of Necessity on the Kendra Santos, et con property; and 3. Adopt, by a 4/5th's vote, the Resolution of Necessity on the Clarence E. and Allene F. Elder Living Trust, Dated September 7, 1994 property; and 4. Adopt, by a 4/5th vote, the Kenneth Raymond Hord Family Trust, dated March 7, 2000 property. 			
(6) FUNDING SOURCE(S) HSIP, Prop 1B, Road Fund	(7) CURRENT YEAR FINANCIAL IMPACT \$11,750.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>20 mins</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: 6/5/12; Item #22	
(17) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(18) SUPERVISOR DISTRICT(S) District 5 -			

Reference: 13MAR26-H-1

County of San Luis Obispo



TO: Board of Supervisors
FROM: Public Works
Phil Acosta, Right of Way Agent
VIA: Dave Flynn, Deputy Director of Public Works
DATE: 3/26/2013

SUBJECT: Hearing to consider three resolutions of necessity for the acquisition of real property interests required from Kendra Santos, et con, from the Clarence E. and Allene F. Elder Living Trust, dated September 7, 1994, and from the Kenneth Raymond Hord Family Trust, dated March 7, 2000, for the La Panza Road Widening Project. District 5.

RECOMMENDATION

It is our recommendation that your Honorable Board:

1. Open and conduct a hearing on the adoption of the three resolutions of necessity, receive comments from the staff, take testimony from the property owners or their authorized representative, and consider all the evidence; and
2. Adopt, by a 4/5th's vote, the Resolution of Necessity on the Kendra Santos, et con property; and
3. Adopt, by a 4/5th's vote, the Resolution of Necessity on the Clarence E. and Allene F. Elder Living Trust, Dated September 7, 1994 property; and
4. Adopt, by a 4/5th vote, the Kenneth Raymond Hord Family Trust, dated March 7, 2000 property.

DISCUSSION

La Panza Road is a rural collector located east of Creston between State Routes 41 and 58 and is illustrated on the attached Vicinity Map. In response to known safety concerns, the Public Works Department has developed a project to improve a portion of La Panza Road. The funded project will improve the road from Ryan Road to Hord Valley Road by constructing four foot (4') paved shoulders and relocating the adjacent drainage ditch. The project's objective is to improve road safety by having a recoverable shoulder and eliminating or reducing roadside obstacles. The current project has been developed from a study of multiple design alternatives and various environmental, budgetary and regulatory parameters to achieve the best solution for the project location.

In total, acquiring additional road right of way from twelve (12) properties is needed for the project. Right of way documents have been executed by six (6) of twelve (12) owners to date. Approving the Resolutions of Necessity for the three (3) subject properties is necessary to comply with Federal Highway Administration funding requirements since the project is an approved HSIP Project. If the County does not advance the project to the construction phase within the next six (6) months, Caltrans (FHWA lead agency) would be authorized to bar the County from applying for any new safety grants.

On February 23, 2011, the California Department of Transportation approved the County's application for Highway Traffic Safety Improvement Program (HSIP) Funds for the La Panza Road Widening Project. The County's application, dated December 8, 2010, further describes the purpose and need for the Project. Said application is on file at the County's Public Works Department, and is incorporated herein by reference.

On June 5, 2012, your Board adopted the findings required by the California Environmental Quality Act and approved a Mitigated Negative Declaration for the La Panza Road Widening Project (ED10-141; 300397) (WBS 300397). This report, including the Notice of Determination & Initial Study, summarizes the purpose and need for the Project, and is incorporated herein by reference.

Project Right of Way Needs

a) Santos Property (APN: 043-091-052):

The County requires a Public Road and Slope Easement over a 0.35 acre (15,231 sf) portion of the Santos property to provide adequate space for the planned shoulder widening and drainage reconstruction. The required easement has a length of approximately 1,396 feet, an average width of 10.9 feet and is located along a portion of the property's La Panza Road frontage. The impacted property fencing is to be relocated at the expense of the project and the driveway approach and related culvert encroachments are also to be reconstructed at project expense.

b) Elder Property (APN: 043-093-007):

The County requires a Public Road and Slope Easement over a 0.11 acre (4,753 sf) portion of the Elder property to provide adequate space for the planned shoulder widening and drainage reconstruction. The required easement has a length of approximately 682 feet, an average width of 7 feet and is located along a portion of the property's La Panza Road frontage. Any impacted property fencing is to be relocated at the expense of the project and the driveway approach and related culvert encroachments are also to be reconstructed at project expense.

c) Hord Property (APN: 043-251-013):

The County requires a Public Road and Slope Easement over a 0.10 acre (4,282 sf) portion of the Hord property to provide adequate space for the planned shoulder widening and drainage reconstruction. The required easement has a length of approximately 233 feet and average width of 18 feet and is located along a portion of the property's La Panza Road frontage. Any impacted property fencing is to be relocated at the expense of the project, and the driveway or private roadway approach and related culvert encroachments are also to be reconstructed at project expense.

Procedural Steps

The County's offer to purchase the necessary easement was made to Santos on December 4, 2012. In accordance with Federal, State, and Local acquisition requirements, this offer is based upon a staff appraisal which was duly approved on December 4, 2012. Efforts with this property owner have not resulted in an agreement, and adoption of the attached Resolution of Necessity is needed at this time.

The County's offer to purchase the necessary easement was made to Elder on November 19, 2012. In accordance with Federal, State, and Local acquisition requirements, this offer is based upon a staff appraisal which was duly approved on November 16, 2012. Efforts with this property owner have not resulted in an agreement, and adoption of the attached Resolution of Necessity is needed at this time.

The County's offer to purchase the necessary easement was made to Hord on February 6, 2013. In accordance with Federal, State, and Local acquisition requirements, this offer is based upon a staff appraisal which was duly approved on December 19, 2012. Efforts with this property owner have not resulted in an agreement, and adoption of the attached Resolution of Necessity is needed at this time.

Federal, State and Local guidelines provide the County with the right to implement Eminent Domain proceedings upon the adoption of the resolutions of necessity as recommended. The Code of Civil Procedure requires a 4/5th's vote for the adoption of these resolutions.

The recommended actions are necessary to initiate legal steps that will assure that the County obtains legal possession of the properties in accordance with the project schedule. Upon approval of the resolutions, which require a 4/5th's vote, ongoing discussions and negotiations between the County and the property owners will continue with the intent of reaching mutually agreeable terms of compensation as provided by applicable laws and regulations.

In order for your Board to adopt the requested resolutions, it must make the following findings as set forth in each of the attached resolutions:

- A. The public interest and necessity require the project;
- B. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- C. The subject property is necessary for the proposed project; and
- D. The offer required by Section 7267.2 of the Government Code has been made to the subject owner(s) of record.

At today's hearing, evidence and discussion by the property owners or their representative should pertain to these four points.

Any issues relating to the value/compensation of the subject properties are not proper subjects for this hearing. The property owners are entitled to fair market value of any property taken pursuant to the procedures set forth in the California Code of Civil Procedure.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel has reviewed and approved the subject resolutions as to legal form and effect. County Planning has been involved in project permitting. Caltrans administers the Federal Highway Safety Improvement Program in California.

FINANCIAL CONSIDERATIONS

The costs of interests required are currently appraised as follows:

Kendra Santos, et con	\$ 7,000
Clarence E. & Allene F. Elder Living Trust	2,750
Kenneth R. Hord Living Trust	<u>2,000</u>
Total	\$11,750

This project is a multi-year project budgeted in Roads Fund for FY 2012-13 WBS 300397 in the amount of \$2,031,852. The project will receive funds from Federal Highway Safety Improvement Program (HSIP), Proposition 1B and Road funds.

If the County is unable to deliver the La Panza Road project on schedule, Caltrans would be authorized to bar the County from applying for future HSIP grants.

RESULTS

Adopting the three requested resolutions will allow continued progress toward construction of the La Panza Road Widening Project by supporting the acquisition of the described real property interests required for the Project. Construction of the project will provide for a safe community.

File: 300397

Reference: 13MAR26-H-1

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ATTACHMENTS

1. Vicinity Map
2. Exhibit 1 - Owner and Parcel List
3. Resolution of Necessity for the Real Property Interests required from Kendra Santos, et con
4. Resolution of Necessity for the Real Property Interests required from the Clarence E. and Allene F. Elder Living Trust, dated September 7, 1994
5. Resolution of Necessity for the Real Property Interests required from the Kenneth Raymond Hord Family Trust, dated March 7, 2000